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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,820	04/06/2001	Kiichirou Wakamatsu	12894/004001/56059-US	6362
27572 7590 12/11/2007 HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			EXAMINER DEAN, RAYMOND S	
			ART UNIT 2618	PAPER NUMBER
			MAIL DATE 12/11/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/827,820

Applicant(s)

WAKAMATSU, KIICHIROU

Examiner

Raymond S. Dean

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3 and 38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3 and 38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 April 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claim 3 have been considered but are moot in view of the new ground(s) of rejection.

Ichimura (US 6,501,968) teaches a means for sending warning sounds to a user through an earphone that an additional function has been terminated to maintain the telephone function (Column 1 lines 21 – 29, Column 4 lines 39 – 42, Column 5 lines 55 – 67, a typical speaker in a portable information terminal such as a cellular phone is an earphone). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the warning indication of Ichimura in the system of Nonogaki for the purpose of making the user aware that the power is being conserved for the purpose of telephone use thus enabling a user to have sufficient power for operating the mobile telephone as taught by Ichimura.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 3, 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nonogaki (6,363,266) in view of Ichimura (US 6,501,968).

Regarding Claim 3, Nonogaki teaches a mobile phone powered by a battery having a telephone function and a function for producing music sounds (Cols. 1 lines 6 – 9, 3 lines 1 – 6, line 21), the mobile phone comprising: means for determining whether a level of battery capacity is lower than a threshold level for permitting operation of the music sounds producing function (Col. 10 lines 11 – 24); means for terminating operation of the music sounds producing function while the music sounds are being outputted when the battery capacity becomes lower than the threshold level to thereby maintain the telephone function (Col. 10 lines 11 – 24, the Nonogaki invention renders a scenario in which the music sounds stop being reproduced when the battery remaining capacity is insufficient); and means for informing a user that the music sounds producing function has been terminated to maintain the telephone function (Col. 10 lines 11 – 24, when the music reproduction function is disabled there will be no music sounds, which is an indication that the music reproduction function has been disabled).

Nonogaki does not teach an outer terminal for connecting an earphone and means for sending warning sounds to a user through the earphone that the music sounds producing function has been terminated to maintain the telephone function.

Ichimura teaches an outer terminal for connecting an earphone (Column 4 lines 39 – 42, the speaker or earphone in a typical mobile phone will be connected to an audio processor such that sounds can be outputted by said speaker, there will need to be a connection, which is the terminal, that enables a connection between said speaker and said processor) and a means for sending warning sounds to a user through an earphone that an additional function has been terminated to maintain the telephone

function (Column 1 lines 21 – 29, Column 4 lines 39 – 42, Column 5 lines 55 – 67, a typical speaker in a portable information terminal such as a cellular phone is an earphone).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the warning indication of Ichimura in the system of Nonogaki for the purpose of making the user aware that the power is being conserved for the purpose of telephone use thus enabling a user to have sufficient power for operating the mobile telephone as taught by Ichimura.

Regarding Claim 38, Nonogaki teaches a mobile phone powered by a battery having a telephone function and a function for producing music sounds (Cols. 1 lines 6 – 9, 3 lines 1 – 6, line 21), the mobile phone comprising: means for determining whether a level of a battery capacity is lower than a threshold level for permitting operation of the music sounds producing function (Col. 10 lines 11 – 24); a display panel (Figure 1, LCD (107)); means for terminating operation of the music sounds producing function, when the battery capacity becomes lower than the threshold level while the music sounds are being outputted (Col. 10 lines 11 – 24, the Nonogaki invention renders a scenario in which the music sounds stop being reproduced when the battery remaining capacity is insufficient).

Nonogaki does not teach means for displaying on the display panel a warning that the music sounds producing function will be restricted, when it is determined that the battery capacity is lower than the threshold level and a signal for initiating the music

sounds producing function is inputted by a user and means for sending warning sounds to a user that the music sounds producing function has been terminated.

Ichimura teaches means for displaying on the display panel a warning that an additional function will be restricted, when it is determined that the battery capacity is lower than the threshold level and a signal for initiating the additional function is inputted by a user (Cols. 4 lines 39 – 42, 5 lines 55 – 62, when the user attempts to use the additional function, said user will notified of a restriction of said additional function) and means for sending warning sounds to a user that the additional function has been terminated (Column 5 lines 55 – 67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the warning indication of Ichimura in the system of Nonogaki for the purpose of making the user aware that the power is being conserved for the purpose of telephone use thus enabling a user to have sufficient power for operating the mobile telephone as taught by Ichimura.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond S. Dean whose telephone number is 571-272-7877. The examiner can normally be reached on Monday-Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban can be reached on 571-272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Raymond S. Dean
December 7, 2007



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